

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



76-1287

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
DOCKET NO. 76-1287

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

- v -

JOSEPH BOSTIC,

Defendant-Appellant.

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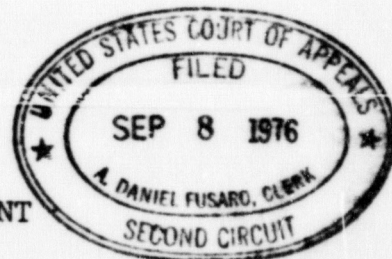
ON APPEAL FROM THE UNITED STATES DIS-  
TRICT COURT FOR THE EASTERN DISTRICT  
OF NEW YORK

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APPENDIX OF THE DEFENDANT-APPELLANT

DAVID BLACKSTONE  
401 BROADWAY  
NEW YORK, N. Y. 10013  
TEL. 226-6684

ATTORNEY FOR DEFENDANT-APPELLANT



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EXHIBIT A



## CRIMINAL DOCKET

75 CR 385

BARTELS, J.

[illegible]

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Fine,		Sept 10th	Wm. J. ...		
Clerk,					
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					

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DATE	PROCEEDINGS
5-12-75	Before NEAHER, J - Indictment filed.
5-22-75	Before BARTELS J - case called - deft & counsel A. Rosenfeld present - deft enters a plea of not guilty - hearing on motion to suppress set down for 11-10-75 at 10:00 am.
6/10/75	Notice of readiness for trial filed
11-10-75	Before BARTELS J - case called - deft & atty A. Rosenfeld present - defts motion to suppress - hearing ordered and begun - hearing concluded - defts motion to suppress is denied.
1/13/75	Before BARTELS, J.- Case called- adjd to 12/1/75 for trial
11-14-75	Stenographers transcript filed dated Nov. 10, 1975
/21/75	Voucher for expert services filed
12/1/75	Before BARTELS, J.- Case called- deft not present-bench warrant ordered-

PROCEEDINGS

CLERK'S OFFICE

PLAINTIFF

DEFENDANT

deft and counsel present-bench warrant vacated- after being advised of his rights by the court and on his own behalf deft withdraws his plea of guilty and enters a plea guilty as charged-deft advised that if his appeal from the decision of this court denying motion to suppress is granted-he may withdraw his plea of guilty- sentence adjd without date - bail contd

1/30/76 Before BARTELS, J.- Case called deft and counsel present- deft sentenced for study and report pursuant to T-18, U.S.C. Sec. 5010(e) -such report to be submitted to the court within 60 days at which time the court will impose sentence

1/30/76 Judgment and Commitment filed- certified copies to Marshall

1/5/76 Certified copy of Judgment and Commitment retd and filed- deft delivered to MCC

1/20/76 Certified copy of Judgment and Commitment retd and filed- deft delivered to Federal Reformatory at Petersburg Va

4-26-76 Before BARTELS, J - case called - deft & counsel A. Rosenfeld present - On plea of guilty to the one count of the indictment, pursuant to 18:4209, in lieu of a definite term, deft is sentenced for treatment and supervision pursuant to the Y.C.A. 18:5010(b) until discharged by the Youth Correction Division.

4-26-76 Judgment & Commitment filed - certified copies to Marshal

5/3/76 Certified copy of Judgment and Commitment retd and filed- deft delivered to MCC

1/14/76 ~~EMERSON~~ Certified copy of Judgment and Commitment retd and filed- deft delivered to FCI at Petersburg

~~6-8-76 Supplemental indictment returned and returned on appeal vacated and the former indictment acknowledged and returned to clerk~~

6-8-76 Petition for writ of habeas corpus ad prosequendum filed - Writ issued.

6-16-76 Writ retd and filed - executed.

6-18-76 Notice of appeal filed - docket entries and duplicate of notice mailed to the court of appeals.

6-18-86 By BARTELS, J - Order filed appointing counsel .

6-18-76 Before BARTELS, J - case called - deft & counsel present - defts pro se motion to vacate judgment - hearing ordered and begun - hearing concluded motion denied - Alexander Rosenfeld relieved as counsel for the deft on appeal Michael Asen of Legal Aid appointed as counsel on appeal. Order signed - Motion pursuant to Rule 35 denied.



CRIMINAL DOCKET

A TRUE COPY  
ATTEST  
DATE: 7-11-19  
LEWIS GOSSEL  
BY: W. H. Smith CLERK  
DEPUTY CLERK

EXHIBIT B



RJI  
F.4

RED:HJF:1j1  
F. #751,535

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

- against -

JOSEPH BOSTIC,

Defendant.

----- X

THE GRAND JURY CHARGES:

On or about the 3rd day of April 1975, within the Eastern District of New York, the defendant JOSEPH BOSTIC did wilfully and unlawfully have in his possession United States Treasury Check No. 90,401,550, dated April 3, 1975, payable to Shirley Kleinman in the sum of Two Hundred Twenty-One Dollars and Ten Cents (\$221.10), which was the contents of a letter stolen from the United States Mail, the defendant knowing the same to have been stolen. (Title 18, United States Code, Sections 1708 and 2).

A TRUE BILL.

*Barbara Hoge*  
Acting FOREMAN

*Samuel J. Tager*  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. NY  
MAY 12 1975  
TIME AM.....  
P.M.....

Cr. No.  
(T. 18, U.S.C., §1708 & §2)

75CR 385

EXHIBIT C

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THE COURT: According to the testimony, Robert Rodenburg, a Police Officer of the City of New York, who had been such an officer for over 11-1/2 years, had on April 3, 1975 entered the building at 4123 Ninth Avenue, Brooklyn, New York, to question the defendant, Joseph Bostic, with respect to Social Security checks which had been stolen from the buildings in the neighborhood, including this particular building. He and his fellow officer had seen the defendant in the neighborhood going in and out of various buildings a



1 half dozen times on March 3, 1975, and that Social  
2 Security checks had been stolen from the various  
3 buildings.

4 Officer Rodenburg stated that he lost the  
5 defendant on March 3, 1975 because the defendant  
6 apparently slipped out of the back entrance or alleyway  
7 of one of the buildings.

8 According to the testimony, the mail was  
9 delivered on the 3rd of the month and this mail includes  
10 Social Security checks. That was the explanation of  
11 the surveyance on March 3, 1975.

12 However, prior to that time the officer had  
13 ascertain, in January 1975, from the superintendent  
14 of the building, that there was no Security Guard  
15 assigned to the building. Again, on March 3, 1975  
16 he had talked with the superintendent of the same  
17 building and ascertained there had been no change  
18 in efforts to protect the building from theft of  
19 Social Security checks.

20 Officer Rodenburg stated that when he encountered  
21 the defendant at 4123 Ninth Avenue on April 3, 1975,  
22 the defendant was carrying a black business or attache  
23 case in which there was a long, bulgy, hard object  
24 which he thought might be a knife. He had previous  
25 to the encounter at 4123 Ninth Avenue seen the defendant

1 enter and leave two other buildings in the neighborhood.  
2 When he faced the defendant he asked him what he was  
3 doing in the building and the defendant said he was a  
4 Security Guard. The officer testified he knew that this  
5 was not true. He then asked the defendant for identi-  
6 fication and the defendant produced an identification  
7 card showing that the defendant was working for some  
8 protective association. With his prior knowledge that  
9 there was no Security Guard attached to the building,  
10 he asked the defendant for further identification.

11 Officer Rodenburg stated he had been suspicious  
12 the defendant was engaged in stealing Social Security  
13 checks from this and other buildings. Upon his request  
14 for further identification the defendant then opened  
15 the attache case where the Officer saw a long, pointed  
16 screwdriver that had been shaven down so it was sharp  
17 at the point. He also saw right next to the screw-  
18 driver a Social Security check payable to Shirley  
19 Kleinman, who lived at 1025 44th Street, Brooklyn,  
20 New York, which was in the neighborhood. The defendant,  
21 in reply to a question from the officer, stated that  
22 Shirley Kleinman was his girlfriend, which was subse-  
23 quently proven to be untrue.

24 The Officer indicated that when his life was  
25 on the line he wanted to ascertain what was in the



1       attache case. Consequently, we are constrained to  
2       conclude this case falls within the parameters of  
3       Adams v. Williams, 407 U.S. 143 (1972); Terry v. Ohio,  
4       392 U.S. 1 (1968); People v. Green, 35 N.Y. 2d 193,  
5       360 N.Y.S. 2d 243; People v. Moore, 32 N.Y. 2d 67,  
6       343 N.Y.S. 2d 107; U.S. v. Riggs, 474 F. 2d 699, cert.  
7       den., 414 U.S. 820 (1973).  
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U. S. ATTORNEY

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EAST. DIST. N. Y.

*Paula  
J. Gansmore*